

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 17-20750

v.

Honorable Thomas L. Ludington

DAMON LAVELLE WILBERT,

Defendant.

**ORDER DENYING DEFENDANT'S MOTION FOR COMPASSIONATE RELEASE
WITHOUT PREJUDICE**

On November 8, 2017, Defendant Damon Lavelle Wilbert was indicted by a grand jury of one count of possession with intent to distribute cocaine. ECF No. 11. He pled guilty on December 19, 2017. ECF No. 19. Defendant was sentenced to 120 months incarceration and eight years of supervised release on March 30, 2018. ECF No. 26.

On June 8, 2020, Defendant filed a *pro se* motion for appointment of counsel on June 8, 2020, which was denied. ECF Nos. 27, 28. On July 15, 2020 Defendant filed a second motion requesting appointment of counsel and seeking compassionate release. ECF No. 29. His second motion was also denied because he does not have the right to an attorney for a compassionate release motion and he did not provide evidence that he exhausted his administrative remedies. ECF No. 30.

On September 30, 2020 Defendant, through counsel, filed another motion seeking compassionate release. ECF No. 32. In this second motion compassionate release motion Defendant argues “[a] request was made by Mr. Wilbert for compassionate release/reduction of sentence, and a response was given by the Warden on May 13, 2020 denying the request.” *Id.* at

PageID.125. However, Defendant or Defendant's counsel provide no evidence of the denial. Such evidence is necessary for the Court to determine whether Defendant has in fact exhausted his administrative remedies. While the Court is aware of the time sensitive nature of Defendant's request, the Sixth Circuit has clearly stated that Defendants must first seek release from the Bureau of Prisons rather than come directly to the courts.

Accordingly, it is **ORDERED** that Defendant's Motion for Compassionate Release, ECF No. 32, is **DENIED WITHOUT PREJUDICE**.

Dated: October 14, 2020

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge